


ORIGINAL

B 104 (Rev.8/99)		ADVERSARY PROCEEDING SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (For Court Use Only)
PLAINTIFFS C.J. CORPORATION dba CRESCENT JEWELERS Address 315 Eleventh Street Oakland, CA 94607		DEFENDANTS GARY DAVID WHITE Case # : 01-90349-PBAD Name : C.J. CORP VS. WHITE Judge : PETER BOWIE Chapter: AD Address 1891 Lassen Street San Diego, CA 92118 Filed : August 29, 2001 14:01:07 Deposited: 156708 Amount : \$150.00		
ATTORNEYS (Firm Name, Address, and Telephone Number) John Mark Jennings Ronald S. Hodges, Esq. MARSHACK SHULMAN HODGES & BASTIAN LLP 26632 Towne Centre Drive, Suite 300 Foothill Ranch, CA 92610-2808 (949) 340-340		ATTORNEYS (if known) Robert L. Gordon 2655 Camino Del Rio N. Suite 430 San Diego, CA 92108 (619) 260-2626		
PARTY (Check one box only) <input type="checkbox"/> 1 U.S. PLAINTIFF <input type="checkbox"/> 2 U.S. DEFENDANT <input checked="" type="checkbox"/> 3 U.S. NOT A PARTY				
CAUSE OF ACTION (Write a brief statement of cause of action, including all U.S. statutes involved) Complaint to Determine Nondischargeability of Debt for Conversion and for Entry of Judgment for Money [11 U.S.C. Section 523(a) (6) & Section 523(a) (2) (c)]				
NATURE OF SUIT (Check the one most appropriate box only)				
<div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> 454 To recover money or property <input type="checkbox"/> 435 To determine validity, priority, or extent of a lien or other interest in property <input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property <input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. §727 </div> <div style="width: 33%;"> <input type="checkbox"/> 455 To revoke an order of confirmation of a Chapter 11 or Chapter 13 Plan <input checked="" type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. §523 <input type="checkbox"/> 434 To obtain an injunction or other equitable relief <input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a Plan </div> <div style="width: 33%;"> <input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of the foregoing causes of action <input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court <input type="checkbox"/> 498 Other (specify) </div> </div>				
ORIGIN OF PROCEEDINGS (Check one box only) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed Proceeding <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another Bankruptcy Court <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23				
DEMAND NEAREST THOUSAND \$ 6		OTHER RELIEF SOUGHT		
BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES				
NAME OF DEBTOR Gary David White		BANKRUPTCY CASE NUMBER: 01-05868-PB		
DISTRICT IN WHICH CASE IS PENDING Southern		DIVISIONAL OFFICE San Diego		NAME OF JUDGE Peter Bowie
RELATED ADVERSARY PROCEEDING (IF ANY)				
PLAINTIFF		DEFENDANT		ADVERSARY PROCEEDING NUMBER:
DISTRICT		DIVISIONAL OFFICE		NAME OF JUDGE
FILING FEE (Check one box only) <input checked="" type="checkbox"/> FEE ATTACHED <input type="checkbox"/> FEE NOT REQUIRED <input type="checkbox"/> FEE IS DEFERRED				
DATE 08/24/01		PRINT NAME John Mark Jennings		SIGNATURE OF ATTORNEY OR PLAINTIFF 

ORIGINAL

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 John Mark Jennings - Bar No. 192641
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Case # : 01-90349-PBAD
 Name : C.J. CORP VS. WHITE
 Judge : PETER BOWIE
 Chapter: AD

Filed : August 29, 2001 14:01:07
 Deputy : A CROSBY
 Receipt: 154708
 Amount : \$150.00

Attorneys for Secured Creditor
 C.J. Corporation

**ASSIGNED TO
 JUDGE PETER W. BOWIE**

**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

In re)	Case No. 01-05868-PB
GARY DAVID WHITE,)	Adv. Case No.
)	01 - 90349
Debtor.)	Chapter 7
)	
C.J. CORPORATION dba CRESCENT JEWELERS,)	COMPLAINT TO DETERMINE NONDISCHARGEABILITY OF DEBT FOR CONVERSION AND FOR ENTRY OF JUDGMENT FOR MONEY [11 U.S.C. § 523(a)(6) & §523(a)(2)(c)]
Plaintiff,)	
vs.)	[No Hearing Set]
GARY DAVID WHITE,)	
Defendant.)	

Plaintiff, C.J. Corporation dba Crescent Jewelers (the "Plaintiff"), hereby respectfully alleges and asserts as follows:

JURISDICTION

1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(a) and 1334 in that this action arises in and relates to the bankruptcy case pending in the United States Bankruptcy Court for the Southern District of California, entitled In re Gary David White, Case Number 01-05868-PB.

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2. The within action is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(I) and is brought pursuant to 11 U.S.C. § 523(a)(6) to determine the dischargeability of a debt owing from Defendant, Gary David White (referred to herein as the "Defendant") to Plaintiff and to except such debt from the Defendant's discharge in the above-entitled bankruptcy proceeding now pending before this Court.

3. The venue is proper in this federal judicial district pursuant to 28 U.S.C. § 1409(a).

GENERAL ALLEGATIONS

4. On or about May 31, 2001, the Defendant filed a voluntary petition under Chapter 7 of the Bankruptcy Court and an order for relief has been entered.

5. Plaintiff is listed as a creditor on the Defendant's schedules which were filed in connection with the petition herein.

6. Plaintiff is informed and believes and thereon alleges that Defendant is, and at all times relevant hereto, residing at 1891 Lassen Street, San Diego, California 92139.

FIRST CLAIM FOR RELIEF **[11 U.S.C. § 523(a)(6)]**

7. Plaintiff incorporates paragraphs 1 through 6 of the Complaint as though set forth in full herein.

8. On or about April 13, 2000, Defendant opened a retail installment charge account, account number 23202001352, with the Plaintiff and purchased the following personal property:

Stock Number	Description of Merchandise	Purchase Price
456699	10K 20" Hollow Fig Chain	\$399.00
53694	Gentleman's 3 Diamond ring	\$99.00

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///

9. On or about November 3, 2000, Defendant made additional purchases which were consolidated with his existing account balance as follows:

Stock Number	Description of Merchandise	Purchase Price
650390	Fancy Ring	\$1,299.00

10. On May 1, 2001, according to Debtor's Statement of Financial Affairs, Debtor retained the services of Robert L. Gordon for the purposes of filing Debtor's Chapter 7 Bankruptcy.

11. Unbelievably on the same date that the Defendant retained bankruptcy counsel, Defendant returned the above-referenced ring to Plaintiff at 7:22 p.m. and made additional purchases which were consolidated with his existing account as follows:

Stock Number	Description of Merchandise	Purchase Price
650390 - Return	Fancy Ring	-\$1,299.00
577932	Anniversary Ring	\$499.00
650622	Ladies Ring 1.5CT	\$4,299.00

12. A true and correct copy of the Retail Installment Contract dated April 13, 2000, (referred to herein as the "Security Agreement") is attached hereto as Exhibit "1" and incorporated herein by this reference.

13. A true and correct copy of the Retail Installment Contract dated November 3, 2000 (referred to herein as the "Security Agreement") is attached hereto as Exhibit "2" and incorporated herein by this reference.

14. A true and correct copy of the Retail Installment Contract dated May 1, 2001 (referred to herein as the "Security Agreement") is attached hereto as Exhibit "3" and incorporated herein by this reference.

15. The Security Agreements provide that the Plaintiff shall have a security interest in the personal property being purchased and the personal property purchased

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1 under previous contracts.

2 16. The Security Agreements further provide that if there is a default in the
3 performance of any of the obligations thereunder, the Plaintiff may request possession
4 of the property and/or Plaintiff may, with or without notice, repossess the personal
5 property.

6 17. Plaintiff has performed all the conditions and promises required of it under
7 the terms and conditions of the Security Agreements.

8 18. On or about June 1, 2001, Defendant defaulted under the terms and
9 conditions of the Security Agreements by failing to make the monthly payments
10 required thereunder.

11 19. As of the date of said default, there was due and owing to the Plaintiff
12 under the Security Agreements the principal sum of six thousand three hundred and
13 fifteen dollars and sixty four cents (\$6,315.64).

14 20. Due to the default under the Security Agreements, the Plaintiff is entitled
15 to the immediate possession of said personal property and has made a demand for its
16 return.

17 21. Plaintiff is informed and believes and thereon alleges that Defendant has
18 willfully and maliciously injured or converted the personal property by:

19 a. Retaining possession of and exercising dominion and control (to the
20 exclusion of the Plaintiff) over said personal property after the Plaintiff made its demand
21 to turn over possession of the personal property; and

22 b. Transferring possession of said personal property to a party or
23 parties, unknown to the Plaintiff, without authority or permission of Plaintiff.

24 **SECOND CLAIM FOR RELIEF**

25 **[11 U.S.C. § 523(a)(2)(c)]**

26 22. Plaintiff incorporates paragraphs 1 through 18 of the Complaint as though
27 set forth in full herein.

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23. On or about May 31, 2001, the Defendant filed a voluntary petition under Chapter 7 of the Bankruptcy Court and an order for relief has been entered.

24. On or about April 13, 2000, Defendant opened a retail installment charge account, account number 23202001352, with the Plaintiff and made purchases totaling five hundred and forty six dollars and sixty cents (\$546.60).

25. On or about November 3, 2000, Defendant made additional purchases which were consolidated with his existing account balance. The total purchases amounted to one thousand two hundred and ninety-nine dollars (\$1,299.00).

26. On or about May 1, 2001, Defendant made additional purchases which were consolidated with his existing account balance. The total purchases amounted to three thousand four hundred and ninety-nine dollars (\$3,499.00).

27. Said purchases were made within sixty (60) days prior to the filing of the Debtors' voluntary petition.

28. The goods purchased, jewelry, constitute "luxury goods."

29. As this debt is owed to a single creditor, CJ, and is for more than \$1,075 for "luxury goods or services," incurred by an individual debtor, on or within 60 days before the order for relief under title 523(a) it is presumed to be nondischargeable.

WHEREFORE, the Plaintiff prays for judgment against Defendant as follows:

ON ALL CLAIMS FOR RELIEF

1. For judgment in favor of Plaintiff and against Defendant for the sum of six thousand three hundred and fifteen dollars and sixty four cents (\$6,315.64), plus interest at the rate of 20.9% per annum from and after June 1, 2001, until the date of judgment;


2. For a determination that the debt due and owing from Defendant to Plaintiff is nondischargeable;

3. For all sums expended by Plaintiff in attempting to obtain possession of the personal property including reasonable attorney's fees and costs; and

1 4. For such other and further relief as the Court may deem proper.

2 **MARSHACK SHULMAN HODGES & BASTIAN LLP**

3
4 Dated: August __, 2001 By:

5 
6 Ronald S. Hodges
7 John Mark Jennings
8 Attorneys for C.J. Corporation
9 dba Crescent Jewelers
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BUYER ADDRESS		SECURITY AGREEMENT		RETAIL INSTALLMENT CO																
GARY 6454 AKINS AVE SAN DIEGO, CA 92114		D WHITE 619/442-8859		NO: 23-2-38 PHONE NO. 610-266-1991 CREDIT APPROVAL EV31KGLR NEW SALE ADD-ON Y-Y																
ANNUAL PERCENTAGE RATE 20.00%		FINANCE CHARGE \$56.59		Amount Financed \$65.00																
Total of Payments \$121.59		Total Sale \$121.59		Total Cost of Goods \$65.00																
NUMBER OF PAYMENTS 65		AMOUNT OF PAYMENTS \$1.25		MONTHLY BEGINNING 05/15/00																
				WHEN PAYMENTS ARE DUE 02/10/01																
<p>SECURITY: You are giving a security interest in: <input type="checkbox"/> the goods being purchased. <input type="checkbox"/> the goods purchased under previous contract(s) with seller.</p> <p>LATE CHARGE: If a payment is at least 10 days late, you will be charged up to \$10.00. If a payment is at least 15 days late, you will be charged up to \$15.00. You will only be charged one late fee per late installment.</p> <p>PREPAYMENT: If you pay off early you may be entitled to a rebate of part of the Finance Charge. See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment rebate penalties.</p> <p>Buyer (meaning all persons who sign this contract as Buyer or Co-Buyer, jointly and severally) having been quoted both the cash price shown below and a deferred payment price hereby agrees to purchase from Seller, on a deferred payment price basis, under the terms stated on the face and back hereof and, if a charge therefore is shown below, in the and/or gold warranty service agreement attached hereto and incorporated by reference herein, received and accepted in its present condition, the following:</p>																				
QUANTITY	STOCK NUMBER	DESCRIPTION	LIST PRICE	TRADE IN VALUE																
1	6454	10K 20" HOLLOW FIG CHAIN	759.00																	
1	83094	GTS 3 DIA .025TW HI/110KT RG	395.00																	
			TOTALS	0.00																
<p>Statement of Insurance (California) Credit life insurance will pay the outstanding balance of Buyer's indebtedness in the event of the death of the insured; credit disability insurance will pay installments payable while the insured is disabled; property insurance will pay the replacement cost of goods purchased hereunder in the event of their loss.</p> <p>Neither credit life, nor credit disability, nor property insurance is required. If such insurance is purchased, you may obtain such insurance from anyone you want that is acceptable to Seller. No insurance coverage is provided unless its box is checked, charged, and therefore noted below and under 2a at right. All insurance is for the term of the loan. Said insurance will be procured by Seller and will expire on the due date of final installment.</p>																				
<p>Coverage</p> <table border="1"> <thead> <tr> <th>I desire I do not desire</th> <th>term</th> <th>premium</th> </tr> </thead> <tbody> <tr> <td><input checked="" type="checkbox"/> Credit Life Insurance</td> <td>— mos.</td> <td>\$ 2.45</td> </tr> <tr> <td><input checked="" type="checkbox"/> Credit Disability Insurance</td> <td>— mos.</td> <td>\$ 13.78</td> </tr> <tr> <td><input checked="" type="checkbox"/> Property Insurance</td> <td>— mos.</td> <td>\$ 20.99</td> </tr> <tr> <td></td> <td></td> <td>0.00</td> </tr> </tbody> </table> <p>TOTAL OF PREMIUMS for Insurance Coverage Financed for Buyer (Insert in item 2a) \$ 36.93</p>						I desire I do not desire	term	premium	<input checked="" type="checkbox"/> Credit Life Insurance	— mos.	\$ 2.45	<input checked="" type="checkbox"/> Credit Disability Insurance	— mos.	\$ 13.78	<input checked="" type="checkbox"/> Property Insurance	— mos.	\$ 20.99			0.00
I desire I do not desire	term	premium																		
<input checked="" type="checkbox"/> Credit Life Insurance	— mos.	\$ 2.45																		
<input checked="" type="checkbox"/> Credit Disability Insurance	— mos.	\$ 13.78																		
<input checked="" type="checkbox"/> Property Insurance	— mos.	\$ 20.99																		
		0.00																		
<p>Application of Buyer You are applying for the insurance marked above. Your signature below means that you agree that:</p> <ol style="list-style-type: none"> You are not eligible to enroll for either credit life or credit disability insurance if you have reached your 65th birthday. You are eligible for disability insurance only if you are working for wages or profit 30 hours a week or more on the coverage Effective Date. Your co-borrower is not eligible for life nor disability insurance. You want to purchase the above checked insurance and you received a copy of the insurance policy. <p>Date Primary Buyer's Signature Date of Birth 6-3-74</p>																				
<p>Security interest has been granted to Bank of America, N.A. as collateral agent in all of Crescent Jewelers rights title and interest hereunder.</p>																				
<p>ITEMIZATION OF THE AMOUNT FINANCED</p> <ol style="list-style-type: none"> CASH PRICE AND TAX: <ul style="list-style-type: none"> Merchandise Price \$498.00 Diamond Warranty \$20.00 Gold Warranty \$40.00 Other Services \$0.00 Total Merchandise and Services \$558.00 Sales Tax \$38.60 TOTAL CASH PRICE \$596.60 AMOUNT PAID TO OTHERS ON YOUR BEHALF: <ul style="list-style-type: none"> Insurance Premiums \$36.93 TOTAL AMOUNT PAID TO OTHERS ON YOUR BEHALF \$36.93 SUBTOTAL (1g + 2b) \$559.67 DOWNPAYMENT AND TRADE-IN: <ul style="list-style-type: none"> Cash Downpayment \$50.00 Trade-In (Discount) Value \$0.00 TOTAL \$50.00 Total Trade-In Value \$0.00 Sales Tax Credit \$0.00 TOTAL DOWNPAYMENT AND TRADE-IN (4a + 4b + 4c) \$50.00 UNPAID BALANCE OF THIS PURCHASE (3 - 4d) \$509.67 EXISTING ACCOUNT BALANCE: <ul style="list-style-type: none"> Outstanding Balance to be Consolidated \$0.00 Rebate of Unearned Finance Charge \$0.00 Rebate of Unearned Insurance Premiums \$0.00 Rebate of Diamond Warranty \$0.00 Rebate of Gold Warranty \$0.00 NET ACCOUNT BALANCE TO BE CONSOLIDATED (6a - 6b - 6c - 6d - 6e) \$509.67 UNPAID BALANCE/AMOUNT FINANCED/PRINCIPAL BALANCE (5 + 6f) \$509.67 FINANCE CHARGE: <ul style="list-style-type: none"> Interest \$0.00 Origination fee \$0.00 TIME BALANCE (TOTAL OF PAYMENTS) \$559.67 The Time Balance (total of payments) is payable in 9 installments of \$65.00 each, payable on the 15 day of each month commencing on 05/15/2000 and a final installment of \$55.12 payable on 02/10/2001. 																				

NOTICE TO THE BUYER: (1) Do not sign this Agreement before you read it or if it contains any blank space to be filled in, except as to information are left blank. (2) You are entitled to a completely filled in copy of this Agreement. (3) You can prepay the full amount due in Agreement at any time and obtain a partial refund of the finance charge (if greater than \$1.00). Because of the way the amount of the refund figured, the time when you prepay could increase the ultimate cost of credit under this Agreement. If you desire to pay off in advance the full due, the amount of refund you are entitled to, if any, will be furnished on request. (4) The Service Charge does not exceed 21% per annum monthly. (5) BUYER ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS AGREEMENT, WHICH HAS BEEN COMPLETELY IN PRIOR TO THE BUYER'S EXECUTION HEREOF, AND ALSO A TRUE COPY OF ANY DOCUMENTS SIGNED BY THE BUYER REQUESTED OR REQUIRED BY THE SELLER, DURING THE AGREEMENT NEGOTIATIONS.

BUYER'S SIGNATURE
I RECEIVED A COPY OF THE DIAMOND AND/OR GOLD WARRANTY TERMS AND CONDITIONS

BUYER'S SIGNATURE
DATE
NOTICE: SEE OTHER SIDE FOR IMPORTANT INFORMATION

N E: SEE OTHER SIDE FOR IMPORTANT INFORM. JN

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT AGREEMENT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE BUYER COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE BUYER SHALL NOT EXCEED AMOUNTS PAID BY THE BUYER HEREUNDER.

1. DEFAULT: If any payment is not paid when due, Seller will charge a late charge disclosed on the reverse hereof. No such charges will be collected more than once on any installment. If Buyer defaults in the performance of his obligations hereunder, including the making of any payment provided herein, when due and payable, the Seller, at its option and without notice to Buyer, may declare the whole amount unpaid hereunder immediately due and payable and, as and to the extent permitted or provided by law, (A) sue and obtain judgment against Buyer for the balance remaining unpaid hereunder, together with court costs and reasonable attorney's fees, (including attorney's fees on any appeal from any judgment or order), (B) retake the goods which are collateral under this Agreement with or without prior demand or legal process and wherever they may be located and either keep them in satisfaction of the balance due or sell them as provided below, (C) exercise any and all other rights and remedies provided for herein and by law.

2. REBATE FOR PRE-PAYMENT: Upon prepayment in full or satisfaction of the indebtedness created hereby prior to maturity through sale of the collateral or redemption thereof after repossession or any judgment, Buyer is entitled to a rebate of the unearned portion of any insurance premium indicated on the reverse hereof, if this insurance was purchased from the Seller,

(Arizona, Texas, New Mexico) and a rebate or refund credit of the unearned portion of the FINANCE CHARGE determined in accordance with applicable law.

(California, Washington) and to rebate or refund credit of the unearned portion of the FINANCE CHARGE determined by the Rule of 78's. Where the amount of the rebate is less than one dollar (\$1.00) no refund will be made.

(Nevada) and to a refund of the unearned portion of the FINANCE CHARGE determined in accordance with applicable law. However, if the Agreement has been in default for more than two months, you will not be entitled to any refund.

(Oregon) and to a rebate or refund credit of the unearned portion of the FINANCE CHARGE determined in accordance with applicable law. However, if the contract has been in default for more than two months, you will not be entitled to any rebate. Where the amount of the rebate is less than one dollar (\$1.00) no rebate or refund need be made.

3. SECURITY INTEREST: Seller retains title to and a security interest in the goods purchased from Seller pursuant to this agreement, all rebates from insurance premiums or policies provided for in this agreement, and all proceeds of the foregoing, until all Buyer's obligations under this agreement are paid and performed.

4. SUBSEQUENT PURCHASES: Seller at its option may add subsequent purchases made by Buyer to the terms of this Agreement. The unpaid balance under this Agreement shall be increased by the price of such subsequent purchases, and all FINANCE CHARGES and installment payments shall be increased proportionately. All terms and conditions hereof shall apply equally to such subsequent purchases. The goods purchased under this Agreement shall be security for the goods purchased under the subsequent Agreement but only until such time as the total of payments under this Agreement is fully paid. The terms of this Agreement shall be applicable to subsequent purchases made by Buyer from time to time.

5. No transfer, renewal, extension or assignment of this Agreement, nor any loss or destruction of or injury to any of said goods shall release Buyer from his or her obligation hereunder. Buyer shall keep said goods free of all liens, taxes and encumbrances. Commencement of suit or the obtaining of judgment for all or any portion of the unpaid balance due hereunder shall not pass title to said goods to Buyer, title being retained by Seller or Seller's assignee until this Agreement, or a judgment for the unpaid balance due hereunder and all accrued costs and expenses are paid in full.

6. If the Buyer defaults in his or her obligations hereunder, including making payments, when due and payable, seller at its options may (1) commence an action to recover the unpaid balance, including finance charges, together with all costs and expenses of suit, including reasonable attorney's fees and expenses for trial or appeal; or (2) repossess the goods subject to the security interest and resell them after notice to the buyer. The proceeds of sale will be applied to all costs of retaking and sale (including repair, reconditioning and preparation) and the balance applied to the unpaid principal balance. If any check delivered by buyer in payment of its obligations is returned unpaid then seller may charge buyer a return check charge of \$15.

7. This Agreement embodies the whole agreement between these parties, and Buyer agrees that no representation, warranty or guaranty has been made to him or her which is not expressly set forth herein. The term "Seller" shall be deemed to include any assignee or subsequent holder of this Agreement and all rights and benefits accruing to Seller under the terms hereof shall also accrue to Seller's assignee or any subsequent assignees. Waiver of any default shall not be a waiver of any other default.

8. Time is of the essence in connection with this Agreement, and all terms and designations herein contained shall be deemed to have the number, gender and entity applicable to the parties who execute this Agreement. If any part or provision hereof is contrary to the provision of law in any state wherein this Agreement may be executed, the remaining provisions shall be binding and effective nevertheless.

9. Buyer agrees that said goods, when not worn on Buyer's person, shall be kept and/or installed on or in the premises above described and shall not be removed therefrom without the written consent of Seller and that Buyer shall not transfer any interest in this Agreement or in said goods and shall not make any material change therein without Seller's consent.

10. RETURN POLICY: NO RETURNS after 30 days. Returns of merchandise within 30 days will not be accepted if the merchandise was specially ordered, altered, or damaged. Returns within 30 days must also be in their original packaging.

11. This Agreement shall be construed in accordance with and governed by the laws of the state of the Seller's address as shown on the reverse side hereof.

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE CREDITOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS OF THIS CONTRACT, HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

Security interest has been granted to Bank of America, N.A. as collateral agent in all of Seller's rights, title and interest hereunder.

1. DEFAULT: If Buyer defaults in the performance of Buyer's obligations hereunder, including, but not limited to, the making of any payment provided herein when due and payable, or if Buyer dies or becomes insolvent, or if a bankruptcy or similar proceeding is commenced by or against Buyer, or if any attachment or garnishment proceedings are initiated against Buyer, Seller may, at its sole option and without notice, declare the entire unpaid balance immediately due and payable, and, to the extent permitted by Applicable Law, repossess the merchandise which has not been paid in full. Buyer agrees that each of the events of default listed herein constitute a reasonable cause for Seller to accelerate maturity. In the event of acceleration, Buyer may be entitled to a rebate of unearned finance charges, unearned insurance premiums, and/or unearned warranty premiums, according to Applicable Law. Buyer agrees to pay all costs incurred by Seller in collecting the indebtedness under this Agreement. In any legal action initiated under this Agreement, the party shall be entitled to recover reasonable attorneys' fees and costs. Buyer agrees to pay all actual and reasonable costs incurred by Seller due to the removal of goods from the State of California without written permission of Seller, or by the failure of Buyer to notify Seller of any change of residence or the failure of Buyer to communicate with Seller for a period of 45 days after any default. If any check delivered by Buyer in payment of its obligations is returned unpaid upon its first presentation, Seller may charge Buyer a return check charge of \$15. Waiver of any default shall not be a waiver of any other default.

2. REBATE FOR PREPAYMENT: Upon (i) prepayment in full or (ii) satisfaction of the indebtedness created hereby prior to the sale of the collateral or redemption thereof after repossession or of any judgment, Buyer is entitled to a rebate of the portion of any insurance premium indicated on the reverse hereof, if this insurance was purchased from Seller, and also to a refund credit of the unearned portion of the FINANCE CHARGE determined by the Rule of 78's. Notwithstanding the above, if the term of this Agreement is greater than 61 months, Seller will determine the refund according to the actuarial method. Where the rebate is less than \$1.00, no rebate will be made.

3. SECURITY INTEREST: Seller retains a security interest in the goods purchased from Seller pursuant to this Agreement, and all proceeds from insurance premiums or policies provided for in this Agreement, all rebates from warranties financed under this Agreement and all proceeds of the foregoing, until all of Buyer's obligations under this Agreement are paid and performed.

4. SUBSEQUENT PURCHASES: Seller, at its option, may add subsequent purchases made by Buyer to the terms of this Agreement. The unpaid balance under this Agreement shall be increased by the price of such subsequent purchases, and all FINANCE CHARGE and installment payments shall be increased proportionately. The goods purchased under this Agreement shall be security for the purchase of goods purchased under the subsequent Agreement as allowed by Applicable Law, but only until such time as the total of payments made by Buyer under this Agreement is fully paid. The terms of this Agreement shall be applicable to subsequent purchases made by Buyer from time to time. It is the intent of Buyer and Seller that Seller retain a purchase money security interest in the goods sold hereunder, as well as in any other goods sold under any previous agreement(s) being consolidated into this Agreement. Payments on prior and subsequent purchases shall be allocated at the discretion of Seller or as provided by Applicable Law.

5. OBLIGATIONS OF BUYER: No transfer, renewal, extension, or assignment of this Agreement, nor any loss or destruction of, or any of said goods shall release Buyer from Buyer's obligations hereunder. Buyer shall keep said goods free of all liens, encumbrances.

6. WHOLE AGREEMENT: This Agreement embodies the whole agreement between these parties, and Buyer agrees that no representation, warranty or guaranty has been made to Buyer which is not expressly set forth herein.

7. TIME OF THE ESSENCE/SEVERABILITY: Time is of the essence in connection with this Agreement. If any part or provision of this Agreement is contrary to the provision of law in any state wherein this Agreement may be executed, the remaining provisions shall be enforceable nevertheless.

8. TRANSFER OF INTEREST/RETURN OF MERCHANDISE: Buyer agrees not to transfer any interest in the goods financed under this Agreement without Seller's prior written consent. If Buyer transfers his or her interest in the goods financed under this Agreement to another person, Buyer agrees to remain liable under this Agreement until such time as a written release of liability is issued by Seller. Buyer agrees to make any material change to the goods without Seller's prior written consent. Buyer acknowledges that Seller's policy prohibits the return of the goods financed after 30 days. Buyer acknowledges that he or she will remain liable for the goods purchased under this Agreement until such time as Seller determines that Buyer has complied with Seller's return policy as enumerated within the guidelines.

9. ASSIGNMENT: The term "Seller" shall be deemed to include any assignee or subsequent holder of this Agreement, and all benefits accruing to Seller under the terms hereof shall also accrue to Seller's assignee or any subsequent holder or transferee.

10. APPLICABLE LAW: This Agreement shall be construed in accordance with and governed by the laws of the State of California without regard to conflict or choice of law, rules or principles ("Applicable Law").

11. SHARING INFORMATION WITH AFFILIATES AND OTHERS: As permitted by Applicable Law, Seller may share with third parties information about Seller's experiences or transactions with Buyer. Seller also may share additional information with companies to which Seller is related by common ownership or affiliated with Seller by common control ("affiliates"). Buyer may direct Seller not to share with affiliates any information other than information about Seller's experiences or transactions with Buyer by writing to Seller at Crescent Jewelers, Inc., P.O. Box 30728, Oakland, California 94604.

12. NOTICE OF INACCURATE INFORMATION: If Buyer believes that Seller has information about Buyer that is inaccurate or incomplete, please notify Seller of such information by writing to Seller at Crescent Jewelers, Inc., P.O. Box 30728, Oakland, California 94604.

13. CREDIT REPORTS: As required by law, you are hereby notified that a negative credit report reflecting on your credit history may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

BUYER NAME & ADDRESS GARY D WHILL 9820 KENWOOD DR Apt: K SPRING VALLEY CA 91777		SOLD BY: Crescent Jewels - Pa El Cajon CA 92020 619/442-8859 ACCT. NO. 23202001352		NO: 23-2-44773 PHONE NO. 71220 CREDIT APPROVAL 619-479-3696 NEW SALE ADDON SALE RE 05/01/01 XX	
ANNUAL PERCENTAGE RATE the cost of your credit as a yearly rate 21.90 %	FINANCE CHARGE the dollar amount your credit will cost you \$ 1235.13	Amount Financed the amount of credit provided to you or on your behalf \$ 5080.51	Total of Payments the amount you will have paid after you have made all payments as scheduled \$ 6315.64	Total Sale Price the total cost of goods on credit, including down payment \$ 6615.64	
NUMBER OF PAYMENTS 23	AMOUNT OF PAYMENTS 264.00	WHEN PAYMENTS ARE DUE MONTH BEGINNING 06/01/01 04/22/03			
SECURITY: You are giving a security interest in: <input type="checkbox"/> the goods being purchased. <input checked="" type="checkbox"/> the goods purchased under previous contract(s) with Seller.					
LATE CHARGE: If a payment is at least 10 days late, you will be charged up to \$10.00. If a payment is at least 15 days late, you will be charged up to \$15.00. You will only be charged one late fee per late installment.					
PREPAYMENT: If you pay off early you may be entitled to a rebate of part of the Finance Charge.					
See your contract documents for any additional information about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment refunds and					
All persons who sign this Agreement as Buyer or Co-Buyer, jointly and severally ("Buyer"), acknowledge that Buyer has been quoted the cash price and the price of credit. Buyer agrees to purchase from and to pay to Crescent Jewelers, Inc. ("Seller") the amount shown under Total Sale Price above. Such agreement to pay to Seller is under the terms of the face and back of this Agreement, as well as on the terms of any diamond and/or gold warranty service agreements, attached hereto and incorporated by reference. Buyer has accepted in its (their) present condition the following:					
QUANTITY	STOCK NUMBER	DESCRIPTION	LIST PRICE	TRADE IN VALUE	A
1	650390	FNCYRG-925CTP SH HI/I 14Y	-2749.00	-1299.00	
1	577932	ANVRG18WPC-50TWIJ/I M14Y	1199.00	499.00	
1	650390	FNCYRG-925CTP SH HI/I 14Y	8499.00	4299.00	
			TOTALS	0.00	3499.00

Statement of Insurance (California) Credit Life Insurance will pay the outstanding balance of Buyer's indebtedness in the event of the death of the insured; credit disability insurance will pay installments payable while the insured is disabled; property insurance will pay the replacement cost of goods purchased hereunder in the event of their loss. Neither credit life, nor credit disability, nor property insurance is required, nor is the purchase of any insurance a factor in Seller's approval or denial of credit. If such insurance is purchased, Buyer may obtain such insurance from an insurer of Buyer's choice. No insurance coverage is provided unless its box is checked, charged, and therefore noted below and under 2a at right. All insurance is for the term of the loan. Said insurance will be procured by Seller. Coverage <table border="0"> <tr> <td>I do not</td> <td>premium</td> </tr> <tr> <td>desire</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Credit Life Insurance</td> <td>0.00</td> </tr> <tr> <td><input type="checkbox"/> Credit Disability Insurance</td> <td>0.00</td> </tr> <tr> <td><input type="checkbox"/> Property Insurance</td> <td>0.00</td> </tr> <tr> <td>TOTAL OF PREMIUMS for Insurance Coverage</td> <td>0.00</td> </tr> <tr> <td>Financed for Buyer (Insert in item 2a)</td> <td>0.00</td> </tr> </table> Application of Buyer You are applying for the insurance marked above. Your signature below means you agree that: 1. You are not eligible to enroll for either credit life or credit disability insurance if you have reached your 65th birthday. 2. You are eligible for disability insurance only if you are working for wages or profit 30 hours a week or more on the coverage effective date as provided within the disability insurance certificate. 3. Your co-borrower is not eligible for life or disability insurance. 4. You understand that the above checked insurance is optional. 5. You want to purchase the above checked insurance and you received a copy of the insurance policy. Date _____ Primary Buyer's Signature _____ Date of Birth _____		I do not	premium	desire		<input type="checkbox"/> Credit Life Insurance	0.00	<input type="checkbox"/> Credit Disability Insurance	0.00	<input type="checkbox"/> Property Insurance	0.00	TOTAL OF PREMIUMS for Insurance Coverage	0.00	Financed for Buyer (Insert in item 2a)	0.00	ITEMIZATION OF THE AMOUNT FINANCED 1. CASH PRICE AND TAX a. Merchandise Price 3499.00 b. Diamond Warranty 200.00 c. Gold Warranty 50.00 d. Other Services 50.00 e. Total Merchandise and Services 3699.00 f. Sales Tax 262.43 g. TOTAL CASH PRICE 3961.43 2. AMOUNT PAID TO OTHERS ON YOUR BEHALF a. Insurance Premiums 0.00 b. TOTAL AMOUNT PAID TO OTHERS ON YOUR BEHALF 0.00 3. SUBTOTAL (1g + 2b) 3961.43 4. DOWNPAYMENT AND TRADE-IN a. Cash Downpayment 300.00 Trade-In Description/Value BGE636 \$ _____ 5 \$ _____ b. Total Trade-In Value 50.00 c. Sales Tax Credit 50.00 d. TOTAL DOWNPAYMENT AND TRADE-IN (4a+4b+5) 300.00 5. UNPAID BALANCE OF THIS PURCHASE (3 - 4d) 3661.43 6. EXISTING ACCOUNT BALANCE a. Outstanding Balance to be Consolidated 636.44 b. Rebate of Unearned Finance Charge 207.36 c. Rebate of Unearned Insurance Premiums 50.00 d. Rebate of Diamond Warranty \$ _____ e. Rebate of Gold Warranty \$ _____ f. NET ACCOUNT BALANCE TO BE CONSOLIDATED (6a - 6b - 6c - 6d - 6e) 1419.08 7. UNPAID BALANCE/AMT FINANCED/PRINCIPAL BALANCE 5080.51 8. FINANCE CHARGE: 1235.13 a. Interest \$ _____ b. Origination fee \$ _____ 9. TIME BALANCE (TOTAL OF PAYMENTS) 6315.64 10. The Time Balance (total of payment) is payable in _____ installment: 264.00 each, payable on the 01 day of each month commencing 06/01/2001 and a final installment 243.64 payable on 04/22/2003
I do not	premium															
desire																
<input type="checkbox"/> Credit Life Insurance	0.00															
<input type="checkbox"/> Credit Disability Insurance	0.00															
<input type="checkbox"/> Property Insurance	0.00															
TOTAL OF PREMIUMS for Insurance Coverage	0.00															
Financed for Buyer (Insert in item 2a)	0.00															

NOTICE TO THE BUYER: (1) Do not sign this Agreement before you read it or if it contains any blank spaces to be filled in. (2) I am entitled to a completely filled-in copy of this Agreement. (3) You can prepay the full amount due under this Agreement at any time and receive a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when prepay could increase the ultimate cost of credit under this Agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request.

BUYER ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS AGREEMENT, WHICH HAS BEEN COMPLETELY FILLED IN PRIOR TO BUYER'S EXECUTION HEREOF, AND ALSO A TRUE COPY OF ANY OTHER DOCUMENTS SIGNED BY BUYER REQUESTED OR REQUIRED BY SELLER, DURING THE AGREEMENT NEGOTIATIONS.

BUYER'S SIGNATURE _____ DATE _____ BUYER'S SIGNATURE _____ DATE _____

☒ I RECEIVED A COPY OF THE AGREEMENT AND/OR GOLD WARRANTY TERMS AND CONDITIONS

NOTICE: SEE OTHER SIDE FOR IMPORTANT INFORMATION

EXHIBIT 3 PAGE 11

SEE OTHER SIDE FOR IMPORTANT INFORMATION

NOTICE

NY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS THEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

Security interest has been granted to Bank of America, N.A. as collateral agent in all of Seller's rights, title and interest hereunder.

DEFAULT: If Buyer defaults in the performance of Buyer's obligations hereunder, including, but not limited to, the making of any payment provided herein when due and payable, or if Buyer dies or becomes insolvent, or if a bankruptcy or similar proceeding is commenced by or against Buyer, or if any attachment or garnishment proceedings are initiated against Buyer, Seller may, at Seller's sole option and without notice, declare the entire unpaid balance immediately due and payable, and, to the extent permitted by Applicable Law, repossess the merchandise which has not been paid in full. Buyer agrees that each of the events of default listed herein constitutes a reasonable cause for Seller to accelerate maturity. In the event of acceleration, Buyer may be entitled to a rebate of unearned finance charges, unearned insurance premiums, and/or unearned warranty premiums, according to Applicable Law. Buyer agrees to pay all costs incurred by Seller in collecting the indebtedness under this Agreement. In any legal action initiated under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. Buyer agrees to pay all actual and reasonable costs incurred by Seller due to the removal of goods from the State of California without written permission of Seller, or by the failure of Buyer to notify Seller of any change of residence or the failure of Buyer to communicate with Seller for a period of 45 days after any default in making payments. If any check delivered by Buyer in payment of its obligations is returned unpaid upon its first presentation, Seller may charge Buyer a return check charge of \$15. Waiver of any default shall not be a waiver of any other default.

REBATE FOR PREPAYMENT: Upon (i) prepayment in full or (ii) satisfaction of the indebtedness created hereby prior to maturity through sale of the collateral or redemption thereof after repossession or of any judgment, Buyer is entitled to a rebate of the unearned portion of any insurance premium indicated on the reverse hereof, if this insurance was purchased from Seller, and also to a rebate or fund credit of the unearned portion of the FINANCE CHARGE determined by the Rule of 78's. Notwithstanding the above, if the term of this Agreement is greater than 61 months, Seller will determine the refund according to the actuarial method. Where the amount of the rebate is less than \$1.00, no rebate will be made.

SECURITY INTEREST: Seller retains a security interest in the goods purchased from Seller pursuant to this Agreement, all rebates from insurance premiums or policies provided for in this Agreement, all rebates from warranties financed under this Agreement and all proceeds of the foregoing, until all of Buyer's obligations under this Agreement are paid and performed.

SUBSEQUENT PURCHASES: Seller, at its option, may add subsequent purchases made by Buyer to the terms of this Agreement. The unpaid balance under this Agreement shall be increased by the price of such subsequent purchases, and all FINANCE CHARGES and installment payments shall be increased proportionately. The goods purchased under this Agreement shall be security for the goods purchased under the subsequent Agreement as allowed by Applicable Law, but only until such time as the total of payments under this Agreement is fully paid. The terms of this Agreement shall be applicable to subsequent purchases made by Buyer from time to time. It is the intent of Buyer and Seller that Seller retain a purchase money security interest in the goods sold hereunder, as well as in the goods sold under any previous agreement(s) being consolidated into this Agreement. Payments on prior and subsequent purchases will be located at the discretion of Seller or as provided by Applicable Law.

OBLIGATIONS OF BUYER: No transfer, renewal, extension, or assignment of this Agreement, nor any loss or destruction of, or injury to, any of said goods shall release Buyer from Buyer's obligations hereunder. Buyer shall keep said goods free of all liens, taxes, and encumbrances.

WHOLE AGREEMENT: This Agreement embodies the whole agreement between these parties, and Buyer agrees that no representation, warranty or guaranty has been made to Buyer which is not expressly set forth herein.

TIME OF THE ESSENCE/SEVERABILITY: Time is of the essence in connection with this Agreement. If any part or provision hereof is contrary to the provision of law in any state wherein this Agreement may be executed, the remaining provisions shall be binding and effective nevertheless.

TRANSFER OF INTEREST/RETURN OF MERCHANDISE: Buyer agrees not to transfer any interest in the goods financed nor transfer any interest in this Agreement without Seller's prior written consent. If Buyer transfers his or her interest in the goods financed, Buyer agrees to remain liable under this Agreement until such time as a written release of liability is issued by Seller. Buyer agrees not to make any material change to the goods without Seller's prior written consent. Buyer acknowledges that Seller's policy prohibits return of the goods financed after 30 days. Buyer acknowledges that he or she will remain liable for the goods purchased under this Agreement until such time as Seller determines that Buyer has complied with Seller's return policy as enumerated within the guidelines above.

ASSIGNMENT: The term "Seller" shall be deemed to include any assignee or subsequent holder of this Agreement, and all rights and benefits accruing to Seller under the terms hereof shall also accrue to Seller's assignee or any subsequent holder or assignees.

2. APPLICABLE LAW: This Agreement shall be construed in accordance with and governed by the laws of the State of California without regard to conflict or choice of law, rules or principles ("Applicable Law").

1. SHARING INFORMATION WITH AFFILIATES AND OTHERS: As permitted by Applicable Law, Seller may share with third parties information about Seller's experiences or transactions with Buyer. Seller also may share additional information with companies related to Seller by common ownership or affiliated with Seller by common control ("affiliates"). Buyer may direct Seller not to share with Seller's affiliates any information other than information about Seller's experiences or transactions with Buyer by writing to Seller at Crescent Jewelers, Inc., P.O. Box 30728, Oakland, California 94604.

2. NOTICE OF INACCURATE INFORMATION: If Buyer believes that Seller has information about Buyer that is inaccurate or that Seller has reported or may report to a credit reporting agency information about Buyer that is inaccurate, please notify Seller of the specific information that Buyer believes is inaccurate by writing to Seller at Crescent Jewelers, Inc., P.O. Box 30728, Oakland, California 94604.

3. CREDIT REPORTS: As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.